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10/759,679	01/19/2004	Robert G. Arsenault	PD-980208A	8613

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Attention of Victor G. Cooper
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EXAMINER

CHIN, RICKY

ART UNIT	PAPER NUMBER
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4157

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PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary	Application No. 10/759,679	Applicant(s) ARSENAULT ET AL.	
	Examiner RICKY CHIN	Art Unit 4157	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 1-19-04.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 20-22,44-46 and 48-57 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 20-22,44-46 and 48-57 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 19 January 2004 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. _____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|----------------------------------------------------------------------------------------|-------------------------------------------------------------------|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____ |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date <u>9-03-04;8-28-06;3-19-07;4-23-07;6-18-07;11-29-07</u> . | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Claim Rejections - 35 USC § 112

1. The following is a quotation of the first paragraph of 35 U.S.C.112:

The specification shall contain a written description of the invention, and of the manner and process of making and using it, in such full, clear, concise, and exact terms as to enable any person skilled in the art to which it pertains, or with which it is most nearly connected, to make and use the same and shall set forth the best mode contemplated by the inventor of carrying out his invention.

2. Claims 22 and 46 are rejected under 35 U.S.C. 112 first paragraph, because the specification, while being enabling for receiving the plurality of time segments of the selected video program in parallel, does not reasonably provide enablement for selecting a second video program for real time reception and receiving the selected video program in real time while receiving time segments. The specification does not enable one skilled in the art to which it pertains, or which it is most nearly connected, to use the invention commensurate in scope with these claims. The claimed subject matter was not found in the specification.

Claims 48-51 are rejected under 35 U.S.C. 112, first paragraph, as failing to comply with the enablement requirement. The claim(s) contains subject matter, which was not described in the specification in such a way as to enable one skilled in the art to which it pertains, or with which it is most nearly connected, to make and/or use the invention. The examiner is unable to determine how the use of "one tuner to receive multiple segments each of which is on a plurality of channels" (claims 48, 50) can be done. The examiner interprets the claims to use multiple tuners to receive multiple segments, each of which is on a plurality of channels as supported in [0088] of the

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specification. Claims 49 and 51 are rejected for being dependent upon rejected base claims.

Claim Rejections - 35 USC § 112

3. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

4. Claims 44-46 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention. It is unclear in the claim language whether the claimed subject refers to an apparatus or a method since the preamble refers to both. The claim will therefore be interpreted as an apparatus (claim 44). Claims 45-46 are rejected for being dependent upon a rejected base claim.

Claim Rejections - 35 USC § 103

5. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

6. Claims (20-21) are rejected under 35 U.S.C. 103(a) as being unpatentable over Ebisawa, US 6,263,504 in view of Inoue et al., US 5,729,280.

Regarding claim 20, Ebisawa teaches a method of storing a video program in response to a user demand (col. 6, lines 12-34), wherein the video program is

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repeatedly transmitted on one of a plurality of channels, each repeated transmission separated in time from a preceding transmission of the video program by a retransmission interval and being transmitted on a different channel than the previous transmission (see fig. 3 and col. 4 lines 11-35, which discloses transmitting a program on different channels offset by a transmission interval), and selecting at least one of a plurality of video programs (col. 6 lines 12-19).

Ebisawa does not explicitly teach of the process of receiving the time segments of the selected video program in parallel. However, Inoue clearly discloses this aspect of the invention (See Abstract, which discloses that a video signal receiver receives a plurality of video channels simultaneously, offset by a transmission interval, a single video program).

Therefore, it would have been obvious to one of ordinary skill in the art at the time of the invention to have combined the teachings of Ebisawa and Inoue for the mere benefit of providing the user with a more minimal waiting time.

Regarding claim 21, Ebisawa further teaches the method of claim 20, wherein the time segments of the selected video program are staggered in time by the retransmission interval (see col. 4 lines 30-35 which discloses staggering the program by 10 minutes).

Regarding claim 44, Ebisawa discloses an apparatus for storing a video program in response to a user demand (See col. 6 lines 12-34 which discloses a command input

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unit to select a program and a data storage unit), which provides the means for selecting at least one of a plurality of video programs (See col. 6 lines 12-34 which discloses a command input unit).

Ebisawa does not explicitly teach the means for receiving a plurality of time segments of the selected video programs in parallel wherein each of the time segments is received on a different one of the channels.

Inoue discloses a receiver (See Abstract, in which the receiver receives a plurality of video channels simultaneously). Therefore, it would have been obvious to one of ordinary skill in the art at the time of the invention to have combined the teachings of Ebisawa and Inoue for the mere benefit of providing the user with a more minimal waiting time.

Regarding claim 45, the apparatus of claim 44, wherein the time segments of the selected video program are staggered in time by the transmission interval (see Ebisawa col. 4 lines 30-35 which discloses staggering the program by 10 minutes).

Regarding claim 48, see claim 44. Furthermore, Ebisawa discloses a storage device, for pre-storing a first segment of the selected video program (See col. 6 lines 12-19, which discloses the MO disc 25 and data storage unit 22 which stores program-1 in advance), and for storing subsequent segments of the selected video program in parallel while retrieving the pre-stored first segment of the selected video program (See col. 6 lines 20-67 which discloses the use of the MO disc, data storage, receiving and

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transmitting apparatus for storing subsequent segments in parallel while retrieving the pre-stored first segment).

Regarding claims 50, the claim has been analyzed and rejected for the same reasons set forth in claim 20. Furthermore, Ebisawa discloses the additional limitation of user input device (col. 9, lines 50-54), which is part of the user terminal (col. 3, lines 35-43). The receiving station 20 of Fig.1 would have necessitated a tuner in order to receive the program and output the program for display.

Regarding claim 51, the claim has been analyzed and rejected for the same reasons set forth in claim 21.

7. Claim 49 is rejected under 35 U.S.C. 103(a) as being unpatentable over Ebisawa, US 6,263,504 in view of Inoue et al., US 5,729,280 as applied to claim 48 above and in further view of Okura et al., US 6,487,722.

Regarding claim 49, Ebisawa and Inoue when combined teach the limitations set forth in claim 48. However, the combination as a whole fails to explicitly teaches of a memory for storing a program guide having an entry for each of the video programs or of a processor coupled to the input device and tuner, and the memory, for scanning the program guide for a VOD service indicator, and for identifying the video program associated with the VOD service indicator as the selected video program.

Okura teaches of an EPG system wherein the EPG is stored in memory (See Fig. 2, 51 which discloses an EPG data memory). The processor 44 is also coupled to the input device 61, tuner 41 and memory 50-53 for scanning a guide for a VOD service indicator and for identifying the video program associated with the VOD service indicator as the selected video program (See col. 10 lines 13-52, which discloses that the CPU judges where the EPG data includes a program flag and reads out the corresponding symbol data which is then outputted to the OSD control section).

Therefore it would have been obvious to one of ordinary skill in the art at the time of the invention to have combined the teachings of Ebisawa and Inoue with that of Okura for the benefit of providing viewers quickly and reliably with information that characterizes each program with a more visual convenience.

8. Claim 52 is rejected under 35 U.S.C. 103(a) as being unpatentable over Ebisawa, US 6,263,504 in view of Inoue et al., US 5,729,280 in further view of Ganek et al., US 5,724,646.

Regarding claim 52, the rejection of claim 48 applies here. The apparatus of claim 48 would imply performing the functions of pre-storing a video program comprising of receiving and storing a first segment of a selected video program as claimed.

However, the combined teachings of Ebisawa and Inoue as a whole do not explicitly teach of wherein the portions of the first segment are received and stored on the plurality of channels in parallel.

Ganek teaches the method wherein portions of the first segment are received and stored on the plurality of channels in parallel (See col. 6 lines 54-63, which discloses that a VOD-server repeatedly transmits to a viewbox a beginning portion of each video program over a plurality of secondary channels).

Therefore it would have been obvious to one of ordinary skill in the art at the time of the invention was made to have combined the teachings of Ebisawa and Inoue with that of Ganek for the mere benefit of having increased flexibility with channel surfing and being able to satisfy a viewers request for a program in a more timely manner.

9. Claims (53-57) is rejected under 35 U.S.C. 103(a) as being unpatentable over Ebisawa, US 6,263,504 in view of Inoue et al., US 5,729,280 and Ganek et al., US 5,724,646 as applied to claim 52 above, and further in view of Okura et al., US 6,487,722.

Regarding claim 53, Ebisawa, Inoue, and Ganek when combined teach the limitations set forth in claim 52. However, the combined teachings as a whole do not explicitly teach of scanning a program guide having an entry for each of the video programs for a VOD service indicator and identifying a video program associated with the VOD service indicator as the selected video program. Okura teaches of an EPG system (see rejection set forth in claim 49), which discloses these features.

Therefore it would have been obvious to one of ordinary skill in the art at the time of the invention to have combined the teachings of Ebisawa, Inoue, and Ganek with that

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of Okura for the benefit of providing viewers quickly and reliably with information that characterizes each program with a more visual convenience.

Regarding claim 54, Ebisawa, Inoue, and Ganek when combined teach the limitations set forth in claim 52. However, the combined teachings as a whole do not explicitly teach of accepting a selection of at least one of the video programs for VOD service; and associating the VOD indicator with the entry of each video program selected for VOD service. Okura teaches of an EPG system (see rejection set forth in claim 49), which clearly discloses these features.

Therefore it would have been obvious to one of ordinary skill in the art at the time of the invention to have combined the teachings of Ebisawa, Inoue, and Ganek with that of Okura for the benefit of providing viewers quickly and reliably with information that characterizes each program with a more visual convenience.

Regarding claim 55, Ebisawa, Inoue, and Ganek when combined teach the limitations set forth in claim 52. However, the combined teachings as a whole do not explicitly teach of scanning a program guide having an entry for each of the video programs to identify at least one video program scheduled to be repeatedly transmitted on one of the plurality of channels.

Okura teaches of scanning a program guide that discloses this feature (See col. 11 lines 47-53, which discloses that a program flag is transmitted to display the symbol "Last" of NVOD).

Therefore it would have been obvious to one of ordinary skill in the art at the time of the invention to have combined the teachings of Ebisawa, Ganek, and Inoue with that of Okura for the benefit of providing viewers quickly and reliably with information that characterizes each program with a more visual convenience.

Regarding claims 56-57, see claim 55. Ebisawa, Inoue, and Ganek when combined teach the limitations set forth in claim 52. However, the combined teachings as a whole do not explicitly teach of the step of comparing the video program information for each of the entries wherein the video program information comprises a program title and unique identifier. Okura teaches of wherein the video program information comprises a title (See col. 10 lines 65-57, which discloses that it is judged whether titles have been rendered in all the display areas). Okura also teaches of wherein the video program information comprises a unique identifier (See col. 11 lines 24-31, which discloses several different unique identifiers).

Therefore it would have been obvious to one of ordinary skill in the art at the time of the invention to have combined the teachings of Ebisawa, Ganek, and Inoue with that of Okura for the benefit of providing viewers quickly and reliably with information that characterizes each program with a more visual convenience.

10. Claims (22, 46) are rejected under 35 U.S.C. 103(a) as being unpatentable over Ebisawa, US 6,263,504 in view of Inoue et al., US 5,729,280 as applied to claims 20 and 44 respectively and in further view of Reynolds et al., US 6,934,963.

Regarding claim 22, Ebisawa and Inoue when combined teach the limitations set forth in claim 20. However, the combination as a whole fails to explicitly teach of selecting and receiving a second program while receiving the plurality of time segments of a video program.

Reynolds teaches a system for simultaneous watch and record of programs from multiple channels (See col. 20 lines 40-43) which would meet the limitation of selecting and receiving a second program.

Therefore, it would have been obvious of one of ordinary skill in the art to have modified the teachings of Ebisawa and Inoue with that of Reynolds for the benefit of the viewer being able to watch other programs that they do not have the option of watching in the future.

Regarding claim 46, the claim has been analyzed and rejected for the same reasons set forth in claim 22.

Contact

11. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Ricky Chin whose telephone number is 571-270-3753. The examiner can normally be reached on M-F 8:30-6:00.

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If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Vu Le can be reached on 571-272-7332. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

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